



**Billing Code 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XH008**

**Endangered and Threatened Species; Take of Anadromous Fish**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** Notice is hereby given that the Oregon Department of Fish and Wildlife (ODFW) has provided a Fishery Management and Evaluation Plan (FMEP), and the Nez Perce Tribe has provided a Tribal Resource Management Plan (TRMP), pursuant to the protective regulations promulgated for Pacific salmon and steelhead under the Endangered Species Act (ESA). The FMEP and TRMP specify the implementation of fisheries targeting steelhead in the Snake River Basin. This document serves to notify the public of the availability of the FMEP, and a Proposed Evaluation and Pending Determination (PEPD) on the Nez Perce Tribe's TRMP, for comment prior to a decision by NMFS whether to approve the proposed fisheries.

**DATES:** Comments must be received at the appropriate address (see **ADDRESSES**) no later than 5 p.m. Pacific time on *[insert date 30 days after date of publication in the FEDERAL REGISTER]*. Comments received after this date may not be accepted.

**ADDRESSES:** Written comments on the application should be addressed to the NMFS Sustainable Fisheries Division, 1201 N.E. Lloyd Boulevard, Suite 1100, Portland, OR

97232. Comments may be submitted by e-mail. The mailbox address for providing e-mail comments is *Snake.River.Steelhead.Fisheries@noaa.gov*. Include in the subject line of the e-mail comment the following identifier: Comments on Snake River Steelhead Fisheries.

**FOR FURTHER INFORMATION CONTACT:** Charlene Hurst, at phone number:

(503) 230-5409, or via e-mail: *Charlene.n.hurst@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Species Covered in This Notice**

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally produced and artificially propagated Snake River Spring/Summer and Snake River Fall.

Steelhead (*O. mykiss*): threatened, naturally produced and artificially propagated Snake River Basin.

Sockeye salmon (*O. nerka*): endangered, naturally produced and artificially propagated Snake River

**Background**

The ODFW FMEP describes fisheries targeting adult adipose-fin-clipped, hatchery-origin steelhead within the Snake River Basin waters in the State of Oregon and in boundary waters with Washington and Idaho. The plan was submitted to NMFS under limit 4 of the ESA 4(d) Rule for salmon and steelhead. These fisheries were designed to support fishing opportunities while minimizing potential risks to ESA-listed species. The FMEP describes timing, location, harvest impact limits, licensing, and gear requirements, and requires that all fish caught with an intact adipose fin be released unharmed. A

variety of monitoring and evaluation is included in the FMEP.

The Nez Perce Tribe TRMP describes fisheries targeting adult steelhead within the Snake River Basin. The plan was provided to NMFS under the ESA Tribal 4(d) Rule. The TRMP describes timing, location, harvest impact limits, and gear. A variety of monitoring and evaluation is included in the TRMP.

As specified in the July 10, 2000, ESA 4(d) rule for salmon and steelhead (65 FR 42422) and updated June 28, 2005 (70 FR 37160), NMFS may approve an FMEP if it meets criteria set forth in 50 CFR 223.203(b)(4)(i)(A) through (I). Prior to approving an FMEP, NMFS must publish notification announcing the availability of the FMEP for public review and comment.

For Tribal plans, prior to making a final determination on the plan, NMFS must take comments on its pending determination as to whether or not implementation of the plan will appreciably reduce the likelihood of survival and recovery of the listed salmonids (50 CFR 223.204(b)(3)). While the provisions of Limit 4 of the 4(d) rule do not strictly apply in review of a Tribal plan, they contain appropriate considerations for NMFS as it reviews tribal harvest plans, and NMFS relies on them to guide its review here.

### **Authority**

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. Limit 4 of

the updated 4(d) rule (50 CFR 223.203(b)(4)) further provides that the prohibitions of paragraph (a) of the updated 4(d) rule (50 CFR 223.203(a)) do not apply to fisheries provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005).

The ESA Tribal 4(d) Rule (65 FR 42481, July 10, 2000) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of survival and recovery for the listed species.

Dated: May 1, 2019.

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Angela Somma,

Chief, Endangered Species Conservation Division,

Office of Protected Resources, National Marine Fisheries Service.

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